

SECOND REGULAR SESSION

# SENATE BILL NO. 943

93RD GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATORS BRAY, DAYS, WHEELER, COLEMAN, WILSON AND GRAHAM.

Read 1st time January 24, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3855S.031

---

---

## AN ACT

To repeal section 170.015, RSMo, and to enact in lieu thereof six new sections relating to reducing the number of abortions in the state through the prevention first act, with penalty provisions.

---

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 170.015, RSMo, is repealed and six new sections  
2 enacted in lieu thereof, to be known as sections 170.015, 191.717, 191.718,  
3 191.720, 192.970, and 338.012, to read as follows:

170.015. 1. Any course materials and instruction relating to human  
2 sexuality and sexually transmitted diseases shall be medically and factually  
3 accurate and shall:

4 (1) Present abstinence from sexual activity as the preferred choice of  
5 behavior in relation to all sexual activity for unmarried pupils because it is the  
6 only method that is one hundred percent effective in preventing pregnancy,  
7 sexually transmitted diseases and the emotional trauma associated with  
8 adolescent sexual activity, and advise students that teenage sexual activity places  
9 them at a higher risk of dropping out of school because of the consequences of  
10 sexually transmitted diseases and unplanned pregnancy;

11 (2) Stress that sexually transmitted diseases are serious, possible, health  
12 hazards of sexual activity. Pupils shall be provided with the latest medical  
13 information regarding exposure to human immunodeficiency virus, acquired  
14 immune deficiency syndrome (AIDS), human papilloma virus, hepatitis and other  
15 sexually transmitted diseases;

16 (3) Present students with the latest medically factual information

17 regarding both the possible side effects and health benefits of all forms of  
18 contraception, including the success and failure rates for the prevention of  
19 pregnancy and sexually transmitted diseases;

20 (4) Include a discussion of the possible emotional and psychological  
21 consequences of preadolescent and adolescent sexual activity and the  
22 consequences of adolescent pregnancy, as well as the advantages of adoption,  
23 including the adoption of special needs children, and the processes involved in  
24 making an adoption plan;

25 (5) Teach skills of conflict management, personal responsibility and  
26 positive self-esteem through discussion and role-playing at appropriate grade  
27 levels to emphasize that the pupil has the power to control personal  
28 behavior. Pupils shall be encouraged to base their actions on reasoning,  
29 self-discipline, sense of responsibility, self-control, and ethical considerations,  
30 such as respect for one's self and others. Pupils shall be taught not to make  
31 unwanted physical and verbal sexual advances or otherwise exploit another  
32 person. Pupils shall be taught to resist unwanted sexual advances and other  
33 negative peer pressure;

34 (6) Advise pupils of the laws pertaining to their financial responsibility  
35 to children born in and out of wedlock and advise pupils of the provisions of  
36 chapter 566, RSMo, pertaining to statutory rape.

37 2. Policies concerning referrals and parental notification regarding  
38 contraception shall be determined by local school boards, consistent with the  
39 provisions of section 167.611, RSMo.

40 3. A school district which provides human sexuality instruction may  
41 separate students according to gender for instructional purposes.

42 4. The board of a school district shall determine the specific content of the  
43 district's instruction in human sexuality, in accordance with subsections 1 to 3 of  
44 this section, and shall ensure that all instruction in human sexuality is  
45 appropriate to the age of the students receiving such instruction.

46 5. A school district shall notify the parent or legal guardian of each  
47 student enrolled in the district of:

48 (1) The basic content of the district's human sexuality instruction to be  
49 provided to the student; and

50 (2) The parent's right to remove the student from any part of the district's  
51 human sexuality instruction.

52 6. A school district shall make all curriculum materials used in the  
53 district's human sexuality instruction available for public inspection pursuant to

54 chapter 610, RSMo, prior to the use of such materials in actual instruction.

55       **7. If any individual believes that the local school district is not**  
56 **complying with this section, such individual may request in writing to**  
57 **the state auditor that the local school district's curriculum on human**  
58 **sexuality be audited. If the state auditor finds that the local school**  
59 **district has violated this section, the audit finding shall be forwarded to**  
60 **the attorney general. If the attorney general agrees with the auditor's**  
61 **findings, the attorney general shall advise such school district that both**  
62 **the state auditor and attorney general have determined that the school**  
63 **district is not in compliance with the requirements of this section. Any**  
64 **school district which does not correct the deficiencies in its human**  
65 **sexuality curriculum to the satisfaction of both the state auditor and the**  
66 **attorney general in a timely manner shall be considered as having a**  
67 **negative result for purposes of meeting the objectives of any school**  
68 **improvement plan of the district.**

      191.717. 1. Sections 191.717 and 191.718 may be cited as the  
2 **"Compassionate Assistance for Rape Emergencies (CARE) Act".**

3       **2. As used in sections 191.717 to 191.718, unless the context clearly**  
4 **indicates otherwise, the following terms shall mean:**

5       **(1) "Emergency care to sexual assault victims", medical**  
6 **examinations, procedures, or services provided at a hospital to a sexual**  
7 **assault victim following an alleged rape;**

8       **(2) "Emergency contraception", any drug or device approved by**  
9 **the Food and Drug Administration that prevents pregnancy after sexual**  
10 **intercourse;**

11       **(3) "Health care facility", any urgent care center or facility that**  
12 **offers treatment for patients during normal business, after-business, or**  
13 **weekend hours and that is affiliated with a licensed hospital;**

14       **(4) "Medically and factually accurate and objective", verified or**  
15 **supported by the weight of research conducted in compliance with**  
16 **accepted scientific methods and is published in peer-reviewed journals**  
17 **where applicable; or comprising information that leading professional**  
18 **organizations and agencies with relevant expertise in the field, such as**  
19 **the American College of Obstetricians and Gynecologists (ACOG),**  
20 **recognize as accurate and objective;**

21       **(5) "Sexual assault", as defined in section 566.040, RSMo;**

22       **(6) "Sexual assault victim", a female who is alleged to have been**

23 raped and is presented as a patient.

191.718. 1. It shall be the standard of care for any hospital and  
2 any health care facility that provides emergency care to sexual assault  
3 victims to:

4 (1) Provide each sexual assault victim with medically and  
5 factually accurate and objective written and oral information about  
6 emergency contraception;

7 (2) Orally inform each sexual assault victim of her option to be  
8 provided emergency contraception at the hospital; and

9 (3) Provide the complete regimen of emergency contraception  
10 immediately at the hospital or health care facility to each sexual assault  
11 victim who requests it.

12 2. Hospitals and health care facilities shall ensure that each  
13 person who provides care to sexual assault victims is provided with  
14 medically and factually accurate and objective information about  
15 emergency contraception.

16 3. The department of health and senior services shall develop,  
17 prepare, and produce informational materials relating to emergency  
18 contraception for the prevention of pregnancy for distribution to use in  
19 any hospital or health care facility in the state in quantities sufficient  
20 to comply with the requirements of this section. The director, in  
21 collaboration with community sexual assault programs, may also  
22 approve informational materials from other sources.

23 4. The information materials must:

24 (1) Be medically and factually accurate and objective;

25 (2) Be clearly written and readily comprehensible in a culturally  
26 competent manner, as the department deems necessary to inform victims  
27 of sexual assault; and

28 (3) Explain the nature of emergency contraception, including its  
29 use, safety, efficacy, and availability, and that it does not cause abortion.

30 5. The department of health and senior services shall respond to  
31 complaints and shall periodically determine whether hospitals and  
32 health care facilities are complying with the provisions of this  
33 section. The department may use all investigative tools available to  
34 verify compliance. If the department determines that a hospital or  
35 health care facility is not in compliance, the department shall:

36 (1) Impose an administrative penalty of five thousand dollars per

37 woman who is denied medically and factually accurate and objective  
38 information about emergency contraception or who is not offered or  
39 provided emergency contraception; and

40 (2) Impose an administrative penalty of five thousand dollars for  
41 failure to comply with the provisions of this section and for every thirty  
42 days that a hospital or health care facility is not in compliance, an  
43 additional penalty of five thousand dollars shall be imposed.

44 6. The department shall promulgate rules to implement the  
45 provisions of sections 191.717 to 191.718.

46 7. Any rule or portion of a rule, as that term is defined in section  
47 536.010, RSMo, that is created under the authority delegated in this  
48 section shall become effective only if it complies with and is subject to  
49 all of the provisions of chapter 536, RSMo, and, if applicable, section  
50 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
51 and if any of the powers vested with the general assembly pursuant to  
52 chapter 536, RSMo, to review, to delay the effective date, or to  
53 disapprove and annul a rule are subsequently held unconstitutional,  
54 then the grant of rulemaking authority and any rule proposed or  
55 adopted after August 28, 2006, shall be invalid and void.

191.720. 1. This section shall be known and may be cited as the  
2 "Birth Control Protection Act".

3 2. The general assembly of this state finds that:

4 (1) Citizens of this state have a protectable interest in the  
5 freedom from unreasonable government intrusions into their private  
6 lives;

7 (2) This interest in freedom from unreasonable government  
8 intrusions into the private lives of citizens encompasses and protects the  
9 right of consenting individuals to obtain and use safe and effective  
10 methods of contraception without interference by governmental entities;

11 (3) It is the public policy of this state that the interest in freedom  
12 from unreasonable government intrusions into the private lives of  
13 citizens, and specifically the right of consenting individuals to obtain  
14 and use safe and effective methods of contraception without interference  
15 by governmental entities, shall be safeguarded and that the laws of this  
16 state shall be interpreted and construed to recognize and protect these  
17 rights.

18 3. Notwithstanding any other provisions of law, no governmental

19 actor or entity, whether state, county, municipal, or otherwise, within  
20 the state of Missouri, shall:

21 (1) Be authorized to act in any fashion so as to deprive consenting  
22 individuals of the right to obtain and use safe and effective methods of  
23 contraception; or

24 (2) Interfere with or discriminate against, in the regulation or  
25 provision of benefits, facilities, services, or information, the right of  
26 consenting individuals to obtain and use safe and effective methods of  
27 contraception.

28 4. Nothing in this section shall be interpreted to prevent  
29 implementation of laws, rules, ordinances, taxes, or regulations affecting  
30 the method and manner of sale or distribution of contraceptives,  
31 provided such laws, rules, ordinances, taxes, or regulations are  
32 reasonably designed to promote public health and safety, and do not  
33 have the effect of unreasonably hindering public access to  
34 contraceptives.

192.970. 1. Subject to appropriation, the department of health and  
2 senior services shall implement a women's health services program by  
3 July 1, 2007. Initial funding for the program shall be in the amount of  
4 five million dollars. Such program shall have the goal of reducing the  
5 number of unintended pregnancies in Missouri by providing women's  
6 health services through qualified health providers, as determined by the  
7 department.

8 2. For purposes of this section, women's health services shall  
9 include, but not be limited to:

10 (1) Breast and cervical cancer checks;

11 (2) Screening and treatment for sexually transmitted diseases;

12 (3) HIV screening;

13 (4) Voluntary choice of contraception, including natural family  
14 planning;

15 (5) Infertility treatment;

16 (6) Patient education and pre-pregnancy counseling on the  
17 dangers of smoking, alcohol, and drug use during pregnancy;

18 (7) Education on sexual coercion and violence in relationships;  
19 and

20 (8) Prenatal and other health care referrals.

338.012. 1. Every pharmacy licensed by the board of pharmacy

2 owes a duty to properly fill the valid and lawful prescriptions of  
3 customers.

4       2. Every licensed pharmacy shall require employees and  
5 prospective employees to notify it in writing of categories or types of  
6 prescriptions that he or she would decline to fill due to sincerely held  
7 religious beliefs.

8       3. Once notified pursuant to subsection 2 of this section, a  
9 licensed pharmacy may attempt to accommodate the employee's or  
10 prospective employee's sincerely held religious beliefs, so long as such  
11 accommodation can be made without causing undue hardship to the  
12 pharmacy or its clients.

13       4. For purposes of subsection 3 of this section, undue hardship  
14 shall have the same meaning as Title VII of the Civil Rights Act of 1964,  
15 42 U.S.C. 2000e, et seq.; including, but not limited to, the following  
16 factors:

17       (1) Whether the proposed accommodation would delay the filling  
18 of prescriptions such that the pharmacy is not able to fill certain  
19 prescriptions in the equivalent time period as the pharmacy is filling  
20 other prescriptions of in-stock medications or devices at that time;

21       (2) The pharmacy's ability to fill the patient's prescription in-  
22 store;

23       (3) The pharmacy's financial costs in implementing the  
24 accommodation;

25       (4) The negative impact on the pharmacy's reputation or good will  
26 in the community due to failure to provide timely prescription services.

27       5. Every licensed pharmacy has a duty to treat each customer in  
28 a nonjudgmental manner and ensure that each customer is not subjected  
29 to indignity, humiliation, breaches of confidentiality, or pressure to fill  
30 or not to fill the prescription, regardless of whether an accommodation  
31 has been implemented under subsection 3 of this section.

32       6. Violation of the provisions of this section shall subject the  
33 licensed pharmacy to disciplinary action under section 338.055.

34       7. A person or governmental entity who believes that a violation  
35 of this section exists may make an allegation of that fact to the board in  
36 writing.

Unofficial

Bill

Copy